

REMARKS

In the Official Action, the Examiner rejected claims 1-2 and 6 under 35 U.S.C. §103(a) as being unpatentable over BREZOCZKY in view of JUTTE et al. and in further view of KAMIYAMA et al. Further, the Examiner rejected claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over BREZOCZKY in view of JUTTE et al. and in further view of KAMIYAMA et al and NAKAOKI et al.

Applicant respectfully traverses the above-mentioned rejections and submits that they are inappropriate with respect to the claims pending in the present application. In this regard, Applicant submits that the rejections are inappropriate at least since each of the applied references (as well as any proper combination thereof) fail to disclose or suggest, *inter alia*, an objective lens comprising a rotationally symmetrical convex aspherical surface at the incident side of the parallel light beam, as recited in the claims.

In this regard, Applicant notes that the Examiner relies upon BREZOCZKY for disclosing this feature. However, Applicant submits that BREZOCZKY does not disclose that objective lens 65 has a rotationally symmetrical convex aspherical surface at the incident side of the parallel light beam, as recited in the claims. Contrary to the Examiner's arguments, Applicant submits that the figure is not indicative of these features. Further, as BREZOCZKY is silent as to the structural characteristics of the objective lens 65 on the light incident side, one cannot assume that BREZOCKY's lack of disclosure is indicative of a particular feature. That is, the Examiner's assertion that "if the shape of the lens was not symmetrical, identification of such would be specified" is inappropriate and

unsupported by BREZOCKZY. Applicant submits that a possible reason for the silence of BREZOCKZY is because the lens is not a primary focus of the BREZOCKY's invention. Rather, the slider is the primary focus of BREZOCKZY.

Moreover, as the figure alone is not indicative of these characteristics, Applicant submits that the rejection is also inappropriate at least since the Examiner has not established or provided any evidence that the missing descriptive subject matter, as recited in the claims, is necessarily present in BREZOCKZY.

Moreover, Applicant submits that JUTTE et al. does not provide the deficiencies of BREZOCKZY with respect to the above-mentioned features. Although JUTTE et al. is directed towards providing an objective lens that has a convex surface 28 and a concave surface 29, JUTTE et al. does not disclose that the convex surface 28 is rotationally symmetrical. Moreover, JUTTE et al. is not even directed to a plano-convex lens.

Furthermore, Applicant submits that KAMIYAMA et al. is not even directed towards an objective lens. Rather, KAMIYAMA et al. is directed towards using a hemispheric lens of a single crystal as a SIL lens. Although KAMIYAMA discloses objective lens 4, KAMIYAMA does not disclose or suggest that the objective lens 4 includes a rotationally symmetrical convex aspherical surface, as recited in the claims. Further, the SIL 5 is used in conjunction with objective lens 4 to achieve the disclosed effective NA.

Also, NAKAOKI also does not disclose the above mentioned features. Although NAKAOKI discloses a system comprising an objective lens 2a,

NAKAOKI fails to disclose that objective lens 2a includes a rotationally symmetrical convex aspherical surface.

In addition to not disclosing at least the above-mentioned features, Applicant submits that the rejection is inappropriate at least since the above-mentioned references fail to disclose, *inter alia*, a single glass plano-convex lens that is configured to maintain a numerical aperture of at least 0.7, as recited in the claims. Contrary to the Examiner's arguments, KAMIYAMA et al. does not disclose the a lens having a NA of 0.7, but refers to expectations and assumptions of improvements in a NA of lens. Accordingly, due to a need of raising surface recording density and unrealized improvements, KAMIYAMA is directed towards a system that utilizes a solid immersion lens (SIL) together with the objective lens 4. Thus, for at least this additional reason, Applicant respectfully requests withdrawal of the rejections.

Furthermore, Applicant submits that the rejection of the claims is inappropriate at least since the Examiner has not presented any implied or explicit suggestion in the references nor a convincing line of reasoning for each of the modifications proposed by the Examiner in the asserted combination. The Examiner combines random features of a plano-convex lens, a concave-convex lens, and a lens system including a SIL and an objective lens. It is thus clear that the Examiner, in setting forth the rejection, is relying upon impermissible hindsight in an attempt to arrive at the claimed invention.

Also, with respect to the Official Action, the Examiner rejected claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over BREZOCZKY in view

of JUTTE et al. and in further view of KAMIYAMA et al, Official Notice, and KIRIKI et al. Additionally, the Examiner rejected claims 8-10 under 35 U.S.C. §103(a) as being unpatentable over BREZOCZKY in view of JUTTE et al. and in further view of KAMIYAMA et al and JP 04163510.

Applicant respectfully traverses each of these rejections and submits that they are inappropriate for all of the above-noted reasons at least since claims 3-4 and 8-10 include the limitations of either claim 1 or 6, which Applicant has shown to be allowable.

Further, Applicant challenges the Examiner's allegations that a plano-convex lens produced by glass molding with a pair of dies that correspond to convex and flat surfaces, as recited, is well known. That is, with respect to the Examiner's reliance upon Official Notice, Applicant respectfully requests that the Examiner provide evidence with respect to the Examiner's assertions that such features, as recited in the claims, are well known.

Applicant also notes that the Examiner has relied upon TANAKA, but has not listed TANAKA on a PTO-892 Form. Accordingly, Applicant respectfully requests the Examiner to return a PTO-892 listing TANAKA et al. (JP 04163510) thereon in the next communication.

Thus, in view of the herein contained remarks, as well as the arguments presented on October 19, 2004, Applicant respectfully requests withdrawal of the outstanding rejections together with an indication of the allowability of the claims. In this regard, Applicant submits that claims 1 and 5 are in condition for allowance. With regards to dependent claims 2-4 and 6-10, Applicant asserts

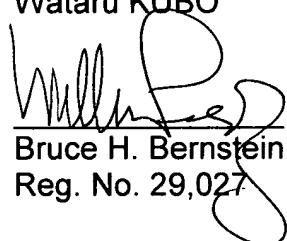
that they are allowable on their own merit, as well as because they depend either directly or indirectly from independent claims 1 or 5, which Applicant has shown to be allowable.

SUMMARY AND CONCLUSION

Applicants believe that the present application is in condition for allowance, and respectfully request an indication to that effect. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the recited claims therein are respectfully requested and now believed to be appropriate.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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